

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA, LAS VEGAS

In re:	) Case No. 13-18021-leb
)
Arcella Gonzalez,	) Chapter 11
)
Debtor.)
	) MOTION TO REOPEN CASE
<hr/>)
US Bank Trust N.A., as Trustee)
Of Bungalow Series F Trust	) (In re: 4496 Brush Avenue, Las Vegas, NV
Movant,	) 89141)
v.)
)
Arcella Gonzalez, Debtor)
)
Respondents.)

US Bank Trust N.A., as Trustee Of Bungalow Series F Trust, its assignees and/or successors ("US Bank"), by and through its undersigned attorney, moves this Court to reopen this Case.

BACKGROUND

1. On or about September 19, 2013, Debtor filed a voluntary Chapter 11 Bankruptcy.
2. On or about August 21, 2014 a plan was confirmed. The plan treatment included Creditor. The Plan imposed a cramdown effective May 1 2014. The new unpaid balance was \$150,00 with a 5% interest rate and a maturity date of April 1 2043. \$96,306.03 was to be treated as unsecured.
3. An order granting the debtor's motion to close the case pending reopening at plan completion was granted On or about December 23, 2014 **See Exhibit "1"**.
4. At the time the case was closed debtor was current on their obligations to creditor.
5. Subsequently debtor failed to make several post petition monthly mortgage payments. Debtor is currently post petition due for November 1, 2017 and all subsequent monthly mortgage payments **See Exhibit "2"**.

POINTS AND AUTHORITIES

Pursuant to §350(b) of the Bankruptcy Code, a bankruptcy can be reopened for cause. As this is discretionary, the decision should be based on the particular facts of the case and the equities of the case. *In re Apez Oil Co., Inc.*, 406 F3d 538,542 (8th Cir. 2005).

Bankruptcy courts have considerable leeway in "crafting relief from the automatic stay, including the power to grant retroactive relief from the stay." *In re Aheong*, 276 B.R. 233, 250 (9th Cr. BAP 2002) (quoting *In re Schwartz*, 954 F.2d 569, 572 (9th Cir. 1992)). Furthermore, in determining whether cause exists for annulling the automatic stay, the bankruptcy court may look

1 at balancing whether “the stay harms the creditor and lifting the stay will not unjustly harm the
2 debtor or other creditors.” *Id.* (quoting *In re John D. Murray and Bessie J. Murray*, 193 B.R. 20,
3 22 (1996 Bankr. Lexis 233)). The bankruptcy courts have the discretion to make this
4 determination. *Id.*; see also *In re Kissinger*, 72 F.3d 107, 109 (9th Cir. 1995).

6 In this case, Debtor filed a petition under Chapter 11 in the District of Nevada on September
7 9 2013. When the case was closed, over a year later, a plan had been confirmed and debtor was
8 current on their post-petition obligation to creditor. Creditor had no reason to object to the closing
9 of the case.

11 As the matter currently stands, cause exists to re-open the case because debtor has not made
12 post-petition payments in nearly a year. Additionally it is equitable to reopen the case to allow
13 Movant to file a Motion for Relief from the Automatic Stay. Movant cannot seek relief in another
14 forum while the bankruptcy stay is in place. At the same time it cannot seek relief in the bankruptcy
15 court while the case remains closed. Unless the case is reopened movant will be completely unable
16 to enforce its security interest in the property. Movant should not be irreparably injured because
17 of a normal part of a Ch 11 case (closing the case until plan completion) which was ordered 4 years
18 ago under materially different circumstances. Therefore, the case should be reopened to allow
19 Movant to pursue the proper remedies.

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23 ///

24 ///

26 WHEREFORE, US Bank Trust N.A., as Trustee Of Bungalow Series F Trust

27 Its successors and assigns respectfully move this Honorable Court for an entry of an
28 Order:

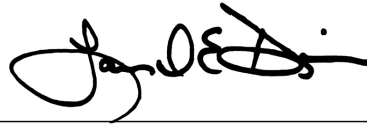
1. Vacating its Order closing case;
2. Reopening the Case;

DATED: January 4 2019

GHIDOTTI BERGER

By: /s/ Jennifer R. Bergh
Jennifer R. Bergh, Esq.
Attorney for:
US Bank Trust N.A., as Trustee
Of Bungalow Series F Trust
Its successors and assigns

EXHIBIT “1”



Honorable Laurel E. Davis
United States Bankruptcy Judge



Entered on Docket
December 23, 2014

E FILED ON 12/23/14
THOMAS E. CROWE, ESQ.
THOMAS E. CROWE PROFESSIONAL
LAW CORPORATION
tcrowe@thomascrowelaw.com
2830 S. Jones Blvd., Suite 3
Las Vegas, Nevada 89146
(702) 794-0373
Attorney for Debtor-in-possession
Nevada State Bar no. 3048

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:	)	BANKRUPTCY NUMBER:
	)	BK-S-13-18021-LED
ARCELIA GONZALEZ,	)	Chapter 11
)	
)	
Debtor.	)	Date: 12/22/14
	)	Time: 9:30 a.m.

**ORDER RE: MOTION TO CLOSE CHAPTER 11
PROCEEDING PENDING REOPENING AT TIME OF
COMPLETION OF PLAN**

This matter having come on for hearing this 22nd day of December, 2014, THOMAS E. CROWE, ESQ., on behalf of Debtor, having been present, proper notice having been given, and upon the arguments of counsel, it is therefore ORDERED AND DECREED:

THAT the Chapter 11 Bankruptcy proceeding of the Debtor herein is closed prior to completing the Chapter 11 Plan payments.

IT IS FURTHER ORDERED AND DECREED THAT Debtor shall reopen the case after completion of the Chapter 11 Plan payments to obtain a discharge.

IT IS FURTHER ORDERED AND DECREED THAT the Debtor shall pay all required fees to reopen the case.

IT IS FURTHER ORDERED AND DECREED THAT upon entry of the order reopening Debtor's Chapter 11 proceeding, the Debtor shall file a **Certificate of Compliance with Conditions Related to Entry of Chapter 11 Individual Discharge Together With Notice Thereon** as required by Administrative Order 2011-03.

Submitted By:

THOMAS E. CROWE PROFESSIONAL
LAW CORPORATION

By /s/ THOMAS E. CROWE
THOMAS E. CROWE, ESQ.
2830 S. Jones Blvd.
Suite 3
Las Vegas, NV 89146
Attorney for Debtor-in-possession

In Accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

 The Court has waived the requirement set forth in LR 9021(b)(1).

xx No party appeared at the hearing or filed an objection to the motion.

 I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

 I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

By /s/ THOMAS E. CROWE
THOMAS E. CROWE, ESQ.

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EXHIBIT “2”



Payment Changes				
Date	P&I	Escrow	Total	Notice Filed
5/1/2014	\$789.03	\$422.60	\$1,211.63	per plan
3/1/2015	\$789.03	\$459.40	\$1,248.43	

Loan Information	
Loan #	13-18021
Borrower	Gonzalez
BK Case #	13-18021
Date Filed	9/19/2013
First Post Petition Due Date	5/1/2014
POC Covers	Cram down effective 5/1/14 - UPB at \$150k @ 5.0% over 30 years, P&I 805.23 - T&I 422.60 - Maturity 4/1/43 - Unsecured amount \$96,306.03 - Any pre confirmation payments need to be applied direct to Principal.

Date	Amount Rcvd	Post Pet Due Date	Contractual Due Date	Amt Due	Over/Short	Suspense Credit	Suspense Debit	Suspense Balance	POC Arrears Credit	POC Debit	POC Suspense Balance	POC Paid to Date	Comments
1/19/2014	\$435.37	Adequate protection			\$435.37			\$0.00			\$0.00	\$0.00	
1/31/2014	\$435.37	Adequate protection			\$435.37			\$0.00			\$0.00	\$0.00	
2/28/2014	\$425.67	Adequate protection			\$425.67			\$0.00			\$0.00	\$0.00	
3/3/2014	\$435.37	Adequate protection			\$435.37			\$0.00			\$0.00	\$0.00	
4/2/2014	\$861.04	Adequate protection			\$861.04			\$0.00			\$0.00	\$0.00	
4/30/2014	\$425.67	Adequate protection			\$425.67			\$0.00			\$0.00	\$0.00	
5/1/2014	\$435.37				\$435.37	\$435.37		\$435.37			\$0.00	\$0.00	
6/6/2014	\$833.83				\$833.83	\$833.83		\$1,269.20			\$0.00	\$0.00	
6/6/2014	\$422.60				\$422.60	\$422.60		\$1,691.80			\$0.00	\$0.00	
7/10/2014	\$435.37				\$435.37	\$435.37		\$2,127.17			\$0.00	\$0.00	
8/8/2014	\$870.74				\$870.74	\$870.74		\$2,997.91			\$0.00	\$0.00	
9/10/2014	\$435.37				\$435.37	\$435.37		\$3,433.28			\$0.00	\$0.00	
9/11/2014	\$422.60				\$422.60	\$422.60		\$3,855.88			\$0.00	\$0.00	
10/13/2014	\$421.72				\$421.72	\$421.72		\$4,277.60			\$0.00	\$0.00	
11/17/2014	\$843.44				\$843.44	\$843.44		\$5,121.04			\$0.00	\$0.00	
12/17/2014	\$421.72				\$421.72	\$421.72		\$5,542.76			\$0.00	\$0.00	
12/18/2014	\$422.60				\$422.60	\$422.60		\$5,965.36			\$0.00	\$0.00	
1/19/2015	\$843.44				\$843.44	\$843.44		\$6,808.80			\$0.00	\$0.00	
2/23/2015	\$421.76				\$421.76	\$421.76		\$7,230.56			\$0.00	\$0.00	
2/24/2015	\$422.60				\$422.60	\$422.60		\$7,653.16			\$0.00	\$0.00	
5/15/2017	\$23,293.45	All pmts made to Seterus were reversed and placed into suspense then transferred to BSI			\$23,293.45	\$23,293.45		\$30,946.61			\$0.00	\$0.00	
5/15/2017		Funds applied direct to principal per the confirmed plan					\$3,018.49	\$27,928.12			\$0.00	\$0.00	
5/15/2017		Cram down system changes completed					\$2,359.86	\$25,568.26			\$0.00	\$0.00	
6/29/2017		1/1/2015		\$1,211.63	-\$1,211.63		\$1,211.63	\$24,356.63			\$0.00	\$0.00	
		2/1/2015		\$1,211.63	-\$1,211.63		\$1,211.63	\$23,145.00			\$0.00	\$0.00	
		3/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$21,896.57			\$0.00	\$0.00	
		4/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$20,648.14			\$0.00	\$0.00	
		5/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$19,399.71			\$0.00	\$0.00	
		6/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$18,151.28			\$0.00	\$0.00	
		7/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$16,902.85			\$0.00	\$0.00	
		8/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$15,654.42			\$0.00	\$0.00	
		9/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$14,405.99			\$0.00	\$0.00	
		10/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$13,157.56			\$0.00	\$0.00	
		11/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$11,909.13			\$0.00	\$0.00	
		12/1/2015		\$1,248.43	-\$1,248.43		\$1,248.43	\$10,660.70			\$0.00	\$0.00	
		1/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$9,412.27			\$0.00	\$0.00	
		2/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$8,163.84			\$0.00	\$0.00	
		3/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$6,915.41			\$0.00	\$0.00	
		4/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$5,666.98			\$0.00	\$0.00	
		5/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$4,418.55			\$0.00	\$0.00	
		6/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$3,170.12			\$0.00	\$0.00	
		7/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$1,921.69			\$0.00	\$0.00	
		8/1/2016		\$1,248.43	-\$1,248.43		\$1,248.43	\$673.26			\$0.00	\$0.00	
7/13/2017	\$1,264.63	9/1/2016		\$1,248.43	\$16.20	\$16.20		\$689.46			\$0.00	\$0.00	
7/24/2017	\$1,264.63	10/1/2016		\$1,248.43	\$16.20	\$16.20		\$705.66			\$0.00	\$0.00	
8/14/2017	\$1,264.63	11/1/2016		\$1,248.43	\$16.20	\$16.20		\$721.86			\$0.00	\$0.00	
9/22/2017	\$1,019.05	12/1/2016		\$1,248.43	-\$229.38		\$229.38	\$492.48			\$0.00	\$0.00	
10/27/2017	\$1,019.05				\$1,019.05	\$1,019.05		\$1,511.53			\$0.00	\$0.00	
12/6/2017	\$1,019.05	1/1/2017		\$1,248.43	-\$229.38		\$229.38	\$1,282.15			\$0.00	\$0.00	
12/13/2017	\$1,019.05	2/1/2017		\$1,248.43	-\$229.38		\$229.38	\$1,052.77			\$0.00	\$0.00	
1/26/2018	\$1,020.00	Suspense			\$1,020.00	\$1,020.00		\$2,072.77			\$0.00	\$0.00	
2/2/2018		NSF Reversal			\$0.00		\$1,020.00	\$1,052.77			\$0.00	\$0.00	

[illegible]

• **MOTION TO REOPEN CASE**

on the interested parties in this action by placing a true and correct copy thereof in a sealed envelope addressed as follows:

(Via United States Mail)

Debtor ARCELIA GONZALEZ 3948 IRVIN AVENUE LAS VEGAS, NV 89141 Debtor's Counsel THOMAS E. CROWE 2830 S. JONES BLVD. # 3 LAS VEGAS, NV 89146	U.S. Trustee U.S. TRUSTEE - LV - 11 300 LAS VEGAS BOULEVARD S. SUITE 4300 LAS VEGAS, NV 89101
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xx (By First Class Mail) At my business address, I placed such envelope for deposit with the United States Postal Service by placing them for collection and mailing on that date following ordinary business practices.

 Via Electronic Mail pursuant to the requirements of the Local Bankruptcy Rules of the Eastern District of California

xx (Federal) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 8, 2019 at Santa Ana, California

/s/ Krystle Miller
Krystle Miller